

Kirkbymoorside Town Council

Information for the meeting on Tuesday 15 April 2025

Agenda item 7. All Saints' Churchyard

- a. To note the Order dated 18 December 2024, that burials should be discontinued in All Saints churchyard, Kirkbymoorside (Burial Act 1853 as amended) received by the Town Council, recorded at Minute 24161 dated 20 January 2025, pursuant to Notice recorded at Minute 24092 dated 21 October 2024

Extract of Minutes of the Town Council, relevant to discontinuation of burials in All Saints churchyard:

Minute 24161 of the Ordinary meeting of the Town Council dated 20 January 2025:

- 24161** Agenda item 8. The Order dated 18 December 2024, that burials should be discontinued in All Saints churchyard, Kirkbymoorside (Burial Act 1853 as amended) pursuant to Notice recorded at Minute 24092 dated 21 October 2024 was **received**.

Minute 24092 of the Ordinary meeting of the Town Council dated 21 October 2024:

- 24092** Agenda item 9. The Notice of Proposed Closure of All Saints Churchyard, Kirkbymoorside dated 4 October 2024 was **received**.

For information purposes, the process of closure by Order is only to prohibit further burials as there are no free grave spaces that haven't been reserved. The Order does not transfer responsibility of maintenance of the churchyard to the local authority. Transfer of the maintenance responsibility needs to be made separately by application, in accordance with the 1972 Local Government Act section 215.

Local Government Act 1972 <https://www.legislation.gov.uk/ukpga/1972/70/section/215>

215 Maintenance of a closed churchyard.

(1) Subject to subsection (2) below, where outside the area subject to the **M1** Welsh Church Act 1914 a churchyard has been closed by an Order in Council, the parochial church council shall maintain it by keeping it in decent order and its walls and fences in good repair.

(2) A parochial church council which is liable under subsection (1) above to maintain a closed churchyard may—

(a) if the churchyard is in a parish or community having a separate parish or community council, serve a written request on that council to take over the maintenance of the churchyard;

(b) if the churchyard is in a parish not having a separate parish council, serve such a request on the chairman of the parish meeting;

(c) if the churchyard is in a community not having a separate community council, serve such a request on the council of the **[F1]** county or county borough in which the community is situated; or

(d)if the churchyard is in England elsewhere than the City and the Temples and is not in any parish, serve such a request on the council of the district or London borough in which the churchyard is situated;

and, subject to subsection (3) below, the maintenance of the churchyard shall be taken over by the authority on whom the request is served or the parish meeting, as the case may be, three months after service of the request.

(3)If, pursuant to subsection (2) above, a request is served on a parish or community council or the chairman of a parish meeting and, if that council or meeting so resolve and, before the expiration of the said three months, give written notice of the resolution to the council of the [F2district, Welsh county or (as the case may be) county borough] and to the parochial church council maintaining the churchyard, the [F3local authority to whom the notice is given] , and not the parish or community council or parish meeting, shall take over the maintenance of the churchyard at the expiration of the said three months.

(4)Where before the passing of this Act a church council established under the constitution of the Church in Wales, in purported exercise of the powers conferred by section 18 of the M2Burial Act 1855 (maintenance of closed churchyard payable out of rates), issued a certificate with respect to a closed churchyard to a local authority, and that authority thereupon took over the maintenance of the churchyard, the authority's action shall be deemed to have been lawful for all purposes, and the authority for the time being responsible for the maintenance of the churchyard shall have the like duty with respect to its maintenance as a parochial church council elsewhere than the area subject to the M3Welsh Church Act 1914.

(5)In subsection (1) above, "the area subject to the M4Welsh Church Act 1914" means the area in which the Church of England was disestablished by that Act.

Information provided by Ministry of Justice in relation to application for discontinuation of burials

For information purposes only, the transfer of the maintenance responsibility is not part of this process, this process is only to prohibit further burials unless they meet any of the stated exceptions, the transfer of the maintenance responsibility is covered in the 1972 Local Government Act section 215, our guidance as stated on our form is as follows:

"Although there is provision for this maintenance responsibility to be transferred by the parochial church council to the local authority at any time once the churchyard has been closed by Order, it is considered good practice, and only fair and reasonable, for any parochial church council contemplating such a transfer of responsibility to ensure that the churchyard and its walls and fences are in good condition at the time of the application. If such an application is likely to be made soon after a closure Order has been obtained, it would be helpful for the parochial church council to have identified and carried out any remedial work necessary, including in relation to memorials."



Richard Finlay
Job Title: Senior Caseworker
Death Management, Miscarriages of Justice, Inquiries & Casework Team
102 Petty France, Area 5:22 , London, SW1H 9AJ
Phone: 0203-334-2778
Email: Richard.finlay@justice.gov.uk

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- b. To consider the formal notification of the intention of the Parochial Church Council (PCC) to transfer the responsibility for maintenance of the Graveyard at All Saints Church, Kirkbymoorside in accordance with the 1972 Local Government Act section 215**

Email dated 26 March 2025

Hi Lisa. See attached confirmation that the Churches Burial ground is now closed. In line with this and within its provisions we formally request that the council take over the maintenance of the graveyard. We are aware that we need to give formal notice for your budgets to be finalised and request that this is formally placed as an agenda item for the April meeting.

Thanks

Revd Paul Sunderland

Vicar of the Parish of Kirkbymoorside with Gillamoor, Farndale, Bransdale and Edstone.

Extract of Minutes of the of Kirkbymoorside with Gillamoor, Bransdale, Farndale and Edstone PCC relevant to the closure of All Saints' churchyard Kirkbymoorside, relevant to the transfer of responsibility for grounds maintenance

PCC meeting dated Monday 15 July 2024:

4. NOTICES and CORRESPONDENCE

"Paul Anne and Kathy propose closing the church yard.

This would transfer the maintenance to the North Yorkshire Council. To the level at date of transfer.

The church yard is full. There is still room for double graves and ashes. This would save us £10,000.

We need legal process, firstly approval of PCC, then notice etc.

There is no benefit to close Gillamoor as there is a fund to maintain it.

Farndale still has space as so does Bransdale.

Paul asked for a proposal to investigator closure. Proposed Lilla, seconded Les and passed unanimously."

PCC meeting dated Monday 7 April 2025:

5. CLOSURE OF CHURCHYARD

"The Town Council has asked for a copy of the minuted proposal. The church yard is now closed. Following investigations the closure allows us to transfer the maintenance of the church yard to our Town Council. Not the ownership. The regulations allow for the process to take three months however, Paul asks the PCC to allow the town council 12 months to coincide with their new budget allocation. If they then decide to pass the maintenance to the County Council that is their priority. Our preference is for it to pass to the Town Council as it is a community facility and hopefully would get more care. October is the re budget date for the Town Council

precept. A J is maintaining the church yard for us and has been asked to get it to an excellent standard so that the obligation for future maintenance is to the same standard.

Proposal

Following the closure of the churchyard we pass a resolution to pass the maintenance to the Town Council on 1 January 2026

Proposed by Anne seconded by Phil and passed unanimously.”